

REMARKS

This application has been reviewed in light of the non-final Office Action dated September 28, 2007. Claims 1-9 are now pending, with Claim 1 in independent form. Claims 10-19 have been cancelled by this Amendment without prejudice or disclaimer of the subject matter presented therein. Claims 5-7 have been amended to as to matters of form only to correct typographical errors, as described below. Favorable reconsideration is respectfully requested.

As an initial matter, Applicants have cancelled Claims 10-19 without prejudice or disclaimer of the subject matter presented therein, as belonging to non-elected species II.

Claim 5 has been objected to for depending from itself. In response, Applicants have amended Claim 5 to depend from Claim 1. Accordingly, this objection is believed to be obviated and its withdrawal is respectfully requested.

Claims 6-9 stand rejected under 35 U.S.C. §112, second paragraph, for allegedly lacking antecedent basis. In response, Claim 6 has been amended to depend from Claim 5 instead of Claim 1, thereby providing proper antecedent basis for the terms therein. Claim 7 has been amended to delete the word "the" before the word --formation--, thereby obviating the corresponding lack of antecedent basis. In addition, the Office Action submits that Claims 8 and 9 lack antecedent basis for the word "emphasis". However, these claims recite --the emphasis image--, which has proper antecedent basis from Claim 1, which defines --an emphasis image-- in its second-to-last line. Accordingly, Applicants respectfully submit that Claims 8 and 9 have proper antecedent basis for the phrase "the emphasis image". For at least these reasons, Applicants respectfully request withdrawal of the 35 U.S.C. §112, second paragraph rejections of Claims 6-9.

Claims 1-4 and 11 stand rejected for nonstatutory obviousness-type double patenting over U.S. Patent No. 7,035,467. Without conceding the propriety of these rejections, Applicants submit herewith a terminal disclaimer, thereby obviating these rejections. Accordingly, Applicants respectfully request withdrawal of these double patenting rejections.

Claims 1-9 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. RE 36,041 (Turk et al.) in view of U.S. Patent No. 5,550,928 (Lu et al.). The Office Action states, and Applicants agree, that the Turk et al. Patent does not explicitly teach Claim 1's "scoring an image based on the relative frequency of occurrence of a recognized face within the collection of images, thereby producing an emphasis image characteristic of the most frequently occurring face in the collection of images." See page 6 of the Office Action, third-to-last paragraph. As allegedly teaching this feature, however, the Office Action refers to a 'scoring' procedure performed by the Lu et al. Patent and described at least with respect to its Figure 11.

In contrast to Claim 1, Applicants understand the Lu et al. Patent's scoring to pertain to a confidence level associated with an identification of an audience viewer's face. See col. 13, lines 9-11 ("These scores have corresponding values determined by how well the faces were recognized.") See also col. 18, lines 40-42. Applicants have not found any teaching or suggestion in the Lu et al. Patent that these face-recognition confidence scores have anything to do with a relative frequency of occurrence of a recognized face, as required by Claim 1. In fact, the Lu et al. Patent is understood to teach stopping the tracking of a face once the confidence score is high enough. See col. 14, lines 25-32.

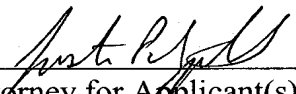
Since neither the Turk et al. Patent or the Lu et al. Patent are understood to teach or suggest Claim 1's scoring an image based on the relative frequency of occurrence of a recognized face within the collection of images, thereby producing an emphasis image characteristic of the most frequently occurring face in the collection of images, Applicants respectfully request withdrawal of the corresponding Section 103(a) rejections.

For at least the above discussed reason(s), Applicants respectfully submit that Claim 1 is patentable over the rejecting references taken separately or in any proper combination for at least the above-discussed reasons.

The other claims in this application depend from one of the independent claims discussed above and, therefore, also are submitted to be patentable for at least the same reasons. Since each dependent claim is deemed to define an additional aspect of the invention, reconsideration of the patentability of each claim on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and the allowance of the present application.

Respectfully submitted,



Attorney for Applicant(s)
Registration No. 52,118

Justin D. Petruzzelli/dh
Rochester, NY 14650
Telephone: 585-726-7522
Facsimile: 585-477-4646

If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.